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8 **BEFORE THE**
9 **PROFESSIONAL FIDUCIARIES BUREAU**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. PF-2011-77

13 **LORETTA DARLENE STEWART-
CABRERA**

DEFAULT DECISION AND ORDER

14 **P.O. Box 221849**
15 **Sacramento, CA 95822**

[Gov. Code, §11520]

16 **Professional Fiduciary License No. PF 222**

17
18 Respondent.

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20 **FINDINGS OF FACT**

21 1. On or about December 5, 2014, Complainant Julia Ansel, in her official capacity as
22 the Bureau Chief of the Professional Fiduciaries Bureau, Department of Consumer Affairs,
23 Department of Consumer Affairs, filed Accusation No. PF-2011-77 against Loretta Darlene
24 Stewart-Cabrera (Respondent) before the Professional Fiduciaries Bureau. (Accusation attached
25 as Exhibit A.)
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1 2. On or about October 17, 2008, the Professional Fiduciaries Bureau (Bureau) issued
2 Professional Fiduciary License No. PF 222 to Respondent. The Professional Fiduciary License
3 expired on May 31, 2012, and has not been renewed.

4 3. On or about December 12, 2014, Respondent was served by Certified and First Class
5 Mail copies of the Accusation No. PF-2011-77, Statement to Respondent, Notice of Defense,
6 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
7 and 11507.7) at Respondent's address of record which, pursuant to California Code of
8 Regulations, title 16, section 1203, is required to be reported and maintained with the Bureau.
9 Respondent's address of record was and is:

10 P.O. Box 221849
11 Sacramento, CA 95822

12 4. On or about December 31, 2014, the aforementioned documents were returned by the
13 U.S. Postal Service marked "undeliverable as addressed/unable to forward.." The address on the
14 documents was the same as the address on file with the Bureau. Respondent failed to maintain an
15 updated address with the Bureau and the Bureau has made attempts to serve the Respondent at the
16 address on file.

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18 5. On or about December 12, 2014, Respondent was also served by Certified and First
19 Class Mail copies of the Accusation No. PF-2011-77, Statement to Respondent, Notice of
20 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
21 11507.6, and 11507.7) at a known address for Respondent at:

22
23 1739 Duarte Avenue
24 Henderson, NV 89014

25 6. On or about January 15, 2015, the aforementioned documents served at the
26 Henderson, Nevada address were returned by the U.S. Postal Service marked "unclaimed."
27 Respondent failed to maintain an updated address with the Bureau and the Bureau has made
28

1 attempts to serve the Respondent at the address on file. Respondent has not made herself
2 available for service and therefore, has not availed herself of her right to file a notice of defense
3 and appear at hearing.

4 7. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

8 8. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

12 9. Respondent failed to file a Notice of Defense within 15 days after service upon her of
13 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. PF-
14 2011-77.

15 10. California Government Code section 11520 states, in pertinent part:

16 (a) If the respondent either fails to file a notice of defense or to appear at the
17 hearing, the agency may take action based upon the respondent's express admissions
18 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

19 11. Pursuant to its authority under Government Code section 11520, the Bureau finds
20 Respondent is in default. The Bureau will take action without further hearing and, based on the
21 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
22 taking official notice of all the investigatory reports, exhibits and statements contained therein on
23 file at the Bureau's offices regarding the allegations contained in Accusation No. PF-2011-77,
24 finds that the charges and allegations in Accusation No. PF-2011-77, are separately and severally,
25 found to be true and correct by clear and convincing evidence.

26 12. Taking official notice of its own internal records, pursuant to Business and
27 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
28 and Enforcement is \$2,910 as of February 10, 2015.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Loretta Darlene Stewart-Cabrera has subjected her Professional Fiduciary License No. PF 222 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Professional Fiduciaries Bureau is authorized to revoke Respondent's Professional Fiduciary License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. The Daphne Cooper trust was created in March of 1996 for Cooper's daughter D.T. c.

In 1991 the JJ Special Needs Trust was created and in February of 2007, Respondent was appointed as trustee. When the JJ Special Needs Trust was created the trust had a total cash and assets value of \$248,776.41.

b. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in that for the year 2010, Respondent took excess fees from the trust in the amount of \$4,052 and \$18,438 in 2011, without explanation.

c. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in that the following unexplained transactions occurred:

1. On or about August 2, 2010, Respondent comingled funds by writing a check from the Cooper trust to the JJ Special Needs Trust in the amount of \$900.

2. On or about August 27, 2010, Respondent electronically transferred \$550 from the Cooper Trust to the JJ Special Needs Trust.

3. On or about June 21, 2011, Respondent caused an automatic debit providing K. E. , an office assistant for Respondent, funds in the amount of \$462.

4. On or about June 30, 2011, Respondent caused an automatic debit in the amount of \$1,100 to be paid to the beneficiary of the Ethel Judd Trust

1 d. In 1991 the JJ Special Needs Trust was created and in February of 2007, Respondent
2 was appointed as trustee. When the JJ Special Needs Trust was created the trust had a total cash
3 and assets value of \$248,776.41.

4 e. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
5 that for the year 2010, Respondent took excess fees from the trust in the amount of \$4,052 and
6 \$18,438 in 2011, without explanation.

7 f. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
8 that the following unexplained transactions occurred:

9 1. On or about November 24, 2010, and December 31, 2010, Respondent made two
10 unauthorized transfers from the JJ Special Needs Trust to the beneficiary of the Ethel B. Trust for
11 a total of \$2,200.

12 2. On or about February 11, 2011, Respondent made an unauthorized transfer of funds
13 from the JJ Special Needs Trust to the beneficiary of the Mami Fernandez Testamentary Trust.

14 3. Respondent made four unauthorized payments from the JJ Special Needs Trust to her
15 employee K.E. in the total amount of \$6,613.41. Respondent did not report these payments in her
16 accounting for the trust for the years 2010 or 2011.

17 g. Respondent is subject to discipline pursuant to 6531 for practicing without a valid
18 license in that her license expired May 31, 2012, and she continued to act as a fiduciary in the JJ
19 Special Needs Trust. Respondent failed to do a final accounting for said trust.


1 ORDER

2 IT IS SO ORDERED that Professional Fiduciary License No. PF 222, heretofore issued to
3 Respondent Loretta Darlene Stewart-Cabrera, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5 written motion requesting that the Decision be vacated and stating the grounds relied on within
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on MARCH 30, 2015

9 It is so ORDERED FEB 24 2015

10
11 
12 DOREATHEA JOHNSON
13 Deputy Director, Legal Affairs
14 Department of Consumer Affairs

15 CABRERA.DOCX
16 DOJ Matter ID:SA2014115975

17 Attachment:
18 Exhibit A: Accusation
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Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5524
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
PROFESSIONAL FIDUCIARIES BUREAU
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

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12 In the Matter of the Accusation Against:

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13 **LORETTA DARLENE STEWART-**
14 **CABRERA**
15 **P.O. Box 221849**
Sacramento, CA 95822

A C C U S A T I O N

16 **Professional Fiduciary License No. PF 222**

17 **Respondent.**

18
19 Complainant alleges:

20 **PARTIES**

21 1. Julia Ansel (Complainant) brings this Accusation solely in her official capacity as the
22 Bureau Chief of the Professional Fiduciaries Bureau, Department of Consumer Affairs.

23 2. On or about October 17, 2008, the Professional Fiduciaries Bureau issued
24 Professional Fiduciary License Number PF 222 to Loretta Darlene Stewart-Cabrera (Respondent).
25 The Professional Fiduciary License expired on May 31, 2012, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Professional Fiduciaries Bureau (Bureau), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 6580 of the code provides in pertinent part

(a) The bureau may upon its own, and shall, upon the receipt of a complaint from any person, investigate the actions of any professional fiduciary. The bureau shall review a professional fiduciary's alleged violation of statute, regulation, or the Professional Fiduciaries Code of Ethics and any other complaint referred to it by the public, a public agency, or the department, and may impose sanctions upon a finding of a violation or a breach of fiduciary duty.

(b) Sanctions shall include any of the following:

(1) Administrative citations and fines as provided in Section 125.9 for a violation of this chapter, the Professional Fiduciaries Code of Ethics, or any regulation adopted under this chapter.

(2) License suspension, probation, or revocation.

....

6. Section 6582 of the code provides:

All proceedings against a licensee for any violation of this chapter or any regulations adopted by the bureau shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall be prosecuted by the Attorney General's office, and the bureau shall have all the powers granted therein.

STATUTORY PROVISIONS

7. Section 6584 of the code provides in pertinent part

A license issued under this chapter may be suspended, revoked, denied, or other disciplinary action may be imposed for one or more of the following causes:

...

(d) Fraud, dishonesty, corruption, willful violation of duty, gross negligence or incompetence in practice, or unprofessional conduct in, or related to, the practice of a professional fiduciary. For purposes of this section, unprofessional conduct includes,

1 but is not limited to, acts contrary to professional standards concerning any provision
2 of law substantially related to the duties of a professional fiduciary.

3 ...

4 (h) Violation of this chapter or of the applicable provisions of Division 4
5 (commencing with Section 1400), Division 4.5 (commencing with Section 4000),
6 Division 4.7 (commencing with Section 4600), or Division 5 (commencing with
7 Section 5000) of the Probate Code or of any of the statutes, rules, or regulations
8 pertaining to duties or functions of a professional fiduciary.

9 8. Section 6531 of the code provides:

10 No professional fiduciary shall operate with an expired, suspended, or revoked
11 license.

12 COST RECOVERY

13 9. Code section 125.3 provides, in pertinent part, that the Bureau may request the
14 administrative law judge to direct a licensee found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 FIRST CAUSE FOR DISCIPLINE 18 (Dishonesty/Fraud)

19 COOPER TRUST

20 10. The Daphne Cooper trust was created in March of 1996 for Cooper's daughter D.T.¹
21 The trust provided for the payment of \$6,000 a year in \$500 monthly payments. In July of 2009,
22 Respondent was appointed as the successor trustee. The Cooper trust had \$20,672.66 in available
23 funds for the period of 2010 and 2011.

24 11. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
25 that for the two year period of 2010 and 2011, Respondent took excess fees in the amount of
26 \$2,917.86, without explanation.

27 12. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
28 that she caused the following unexplained transactions to the Cooper trust:

¹ Initials are used to maintain privacy. The full names will be disclosed in a Request for
Discovery.

1 a. On or about August 2, 2010, Respondent comingled funds by writing a check from the
2 Cooper trust to the JJ Special Needs Trust in the amount of \$900.

3 b. On or about August 27, 2010, Respondent electronically transferred \$550 from the
4 Cooper Trust to the JJ Special Needs Trust.

5 c. On or about June 21, 2011, Respondent caused an automatic debit providing K. E. , an
6 office assistant for Respondent, funds in the amount of \$462.

7 d. On or about June 30, 2011, Respondent caused an automatic debit in the amount of
8 \$1,100 to be paid to the beneficiary of the Ethel Judd Trust.

9 **SECOND CAUSE FOR DISCIPLINE**
10 **(Fraud/Dishonesty)**

11 **JJ SPECIAL NEEDS TRUST**

12 13. In 1991 the JJ Special Needs Trust was created and in February of 2007, Respondent
13 was appointed as trustee. When the JJ Special Needs Trust was created the trust had a total cash
14 and assets value of \$248,776.41.

15 14. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
16 that for the year 2010, Respondent took excess fees from the trust in the amount of \$4,052 and
17 \$18,438 in 2011, without explanation.

18 15. Respondent is subject to discipline pursuant to 6584 (d) for dishonesty and fraud in
19 that the following unexplained transactions occurred:

20 a. On or about November 24, 2010, and December 31, 2010, Respondent made two
21 unauthorized transfers from the JJ Special Needs Trust to the beneficiary of the Ethel B. Trust for
22 a total of \$2,200.

23 b. On or about February 11, 2011, Respondent made an unauthorized transfer of funds
24 from the JJ Special Needs Trust to the beneficiary of the Mami Fernandez Testamentary Trust.

25 c. Respondent made four unauthorized payments from the JJ Special Needs Trust to her
26 employee K.E. in the total amount of \$6,613.41. Respondent did not report these payments in her
27 accounting for the trust for the years 2010 or 2011.

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THIRD CAUSE FOR DISCIPLINE
(Unlicensed Practice)

16. Respondent is subject to discipline pursuant to 6531 for practicing without a valid license in that her license expired May 31, 2012, and she continued to act as a fiduciary in the JJ Special Needs Trust. Respondent failed to do a final accounting for said trust.

PRAYER

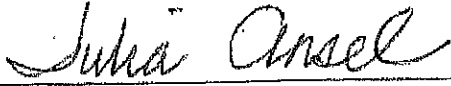
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Professional Fiduciaries Bureau issue a decision:

1. Revoking or suspending Professional Fiduciary License Number PF 222, issued to Loretta Darlene Stewart-Cabrera.;

2. Ordering Loretta Darlene Stewart-Cabrera to pay the Professional Fiduciaries Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 12/5/14


JULIA ANSEL
Bureau Chief
Professional Fiduciaries Bureau
Department of Consumer Affairs
State of California
Complainant

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